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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-938]

Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Countervailing Duty Administrative Review and Notice of Amended Final Results Pursuant to Court Decision; 2011

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 30, 2016, the United States Court of International Trade (CIT) sustained the Department of Commerce's (Department's) final results of redetermination,<sup>1</sup> which recalculated the subsidy rate for RZBC Group Shareholding Co., Ltd., RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. (collectively, RZBC Companies) in the administrative review of the countervailing duty (CVD) order on citric acid and certain citrate salts (citric acid) from the People's Republic of China for the period January 1, 2011, through December 31, 2011,<sup>2</sup> pursuant to the CIT's remand order in *RZBC Companies v. United States*.<sup>3</sup> Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken*,<sup>4</sup> as clarified by *Diamond Sawblades*,<sup>5</sup> the Department is notifying the public that the Court's final judgment in this case is not in harmony with the *Final Results* and that the Department is amending the *Final Results* with respect to the RZBC Companies.

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<sup>1</sup> See *RZBC Group Shareholding Co., Ltd., RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. v. United States*, Court No. 14-00041 (CIT March 30, 2016) (Court Order affirming remand redetermination) (*RZBC Companies v. United States II*).

<sup>2</sup> See *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Countervailing Duty Administrative Review*; 2011, 79 FR 108 (January 2, 2014) (*Final Results*) and accompanying Issues and Decision Memorandum (Final IDM).

<sup>3</sup> See *RZBC Group Shareholding Co., Ltd., RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. v. United States*, Court No. 14-00041, Slip Op. 15-83 (August 5, 2015) (*RZBC Companies v. United States*).

<sup>4</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>5</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

DATES: Effective Date: April 9, 2016.

FOR FURTHER INFORMATION CONTACT: Patricia M. Tran, AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-1503.

SUPPLEMENTARY INFORMATION:

Background

In the *Final Results*, the Department elected to simple-average all available benchmark data for steam coal, sulfuric acid, and calcium carbonate because they were not reported in a uniform manner.<sup>6</sup> The CIT remanded for the Department to reevaluate the world benchmarks for steam coal, sulfuric acid, and calcium carbonate subsidies. Specifically, the CIT instructed the Department to consider whether to calculate world-average prices using weighted or simple-averages in light of small-quantity, high-price transactions in the underlying data, and to comply with the mandate to measure the adequacy of remuneration in light of prevailing market conditions in the country subject to review.<sup>7</sup> The CIT also directed the Department to recalculate the respondents' countervailing duty rate consistent with any reevaluated benchmark prices for steam coal, sulfuric acid, and calcium carbonate.<sup>8</sup>

In its final results of redetermination pursuant to *RZBC Companies v. United States*, the Department reopened and placed on the record in the remand proceeding world benchmark information for steam coal, sulfuric acid, and calcium carbonate. The Department then calculated weighted-average monthly world benchmarks for sulfuric acid and calcium carbonate. For steam coal, we weight-averaged the weightable data<sup>9</sup> on the record while continuing to

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<sup>6</sup> See *Final Results* and Final IDM at Comment 13E.

<sup>7</sup> See *RZBC Companies v. United States*, Slip Op. at 40.

<sup>8</sup> *Id.*

<sup>9</sup> Weightable data contains benchmark prices and quantity.

utilize the data from other unweightable<sup>10</sup> sources.

On March 30, 2016, the CIT sustained the Department’s final results of redetermination pursuant to remand.<sup>11</sup>

#### Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s opinion in *RZBC Companies v. United States II*, issued on March 30, 2016, sustaining the Department’s final results of redetermination constitutes a final decision of the court that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

#### Amended Final Results of Review

Because there is now a final court decision with respect to the *Final Results*, the Department amends its *Final Results*. The Department finds that the following revised net countervailable subsidy rate is:

Company	Net Countervailable Subsidy Rate
RZBC Group Shareholding Co., Ltd., RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. (collectively, RZBC Companies)	18.28 percent <i>ad valorem</i>

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<sup>10</sup> Unweightable data contains only benchmark prices.

<sup>11</sup> See *RZBC Companies v. United States II*.

Since the *Final Results*, the Department established a new cash deposit rate for RZBC Companies.<sup>12</sup> Therefore, the cash deposit rate for RZBC Companies does not need to be updated as a result of these amended final results. In the event that the CIT's ruling is not appealed, or if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to liquidate entries of subject merchandise that were exported by RZBC Companies, and which were entered, or withdrawn from warehouse, for consumption during the period January 1, 2011, through December 31, 2011, at the revised rate of 18.28 percent *ad valorem*.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: April 5, 2016.

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Ronald K. Lorentzen,  
Acting Assistant Secretary  
for Enforcement and Compliance.

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<sup>12</sup> See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review*; 2013, 80 FR 77318 (December 14, 2015).

